

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

KYLE MULLINGS,

Defendant.

19 Cr. 779 (AKH)

ORDER DENYING SENTENCE
REDUCTION MOTION

ALVIN K. HELLERSTEIN, District Judge:

On September 29, 2022, defendant Kyle Mullings was sentenced principally to a term of imprisonment of 240 months for conspiring to use and carry a firearm in furtherance of a drug racketeering enterprise. 18 U.S.C. § 924(o).

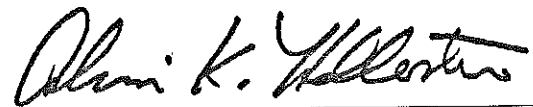
On February 26, 2024, the defendant filed a motion requesting that this court consider a sentence reduction pursuant to Amendment 821 to the Sentencing Guideline amendment which went into effect on November 1, 2023 and applies retroactively. Amendment 821 permits district court judges to decrease the sentence of defendants who received an enhancement for committing the offense while under a criminal justice sentence. The United States Probation Department has issued a report indicating that the defendant is not eligible for a sentence reduction.

The Court has considered defendant's submission on this motion and agrees with probation's report. Defendant received two criminal history points for two prior convictions in state court and two additional status points because he was on probation at the time he committed the instant offense, yielding a Criminal History Category of III. Amendment 821 removes the two status points and retroactively brings his Criminal History Category to II. His net offense

level of 40 remains unchanged. This status point reduction does not lower defendant's guidelines range of 240 months.

It is hereby ORDERED that the defendant is ineligible for this reduction because he was originally sentenced to a term of 240 months' imprisonment, which is the same as the guidelines range as revised by Amendment 821, and this motion is denied. The Clerk is instructed to terminate the open motion at ECF No. 112.

SO ORDERED.

A handwritten signature in black ink, reading "Alvin K. Hellerstein". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Alvin K. Hellerstein
United States District Judge

Dated: May 2, 2024
New York, New York